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May 15, 2015

VIA ECF

Hon. Andrew J. Peck, U.S.M.J.
Southern District of New York
Daniel Patrick Moynihan Courthouse
500 Pearl Street, Courtroom 20D
New York, New York 10007

Re: Rio Tinto plc v. Vale S.A., et al., Civil Action No. 14-cv-3042 (RMB) (AJP) (S.D.N.Y.)

Dear Judge Peck,

We respectfully write seeking clarification of your order from the May 8, 2015 status conference regarding the deadline for substantial completion of the parties' document productions. At that conference, you ordered that the parties complete 95% of their document productions in response to the parties' first sets of document requests by June 30, 2015 to allow the parties time to review and analyze the documents and prepare for depositions, which are scheduled to commence July 1, 2015. (May 8, 2015 Hr'g Tr. 28:9-30:3.) The parties must thereafter complete their productions, in full, by August 28, 2014. (*See* Dkt. Nos. 162 and 163.)

In the ESI Order (Dkt. No. 82), the Court also ordered that the parties exchange initial privilege logs by "no later than thirty (30) days after the completion of document production." (ESI Order at F.4.) Vale interprets these orders to mean that the parties must exchange initial privilege logs with respect to 95% of the documents responsive to the First Requests – the documents produced by June 30 – by July 30, 2015, thirty days thereafter (i.e., while the logs may be amended as necessary, they will be prepared in accordance with the ESI Order and the Federal Rules of Civil Procedure and the failure to assert a privilege properly with respect to a document may result in a waiver, provided, however, that to the extent the orders in Dkts. 61, 81, and 82 are applicable this order is not intended to abrogate the terms of those orders). The alternative – that the parties exchange initial privilege logs thirty days after the close of document discovery on August 28 – would slow down the discovery process and delay

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depositions because any challenge to assertions of privilege would necessarily occur after the close of document discovery and the completion of a large number of depositions.

We respectfully request that Your Honor so order this letter ordering that initial privilege logs be served by July 30 with respect to the 95% of the documents produced by June 30. We have conferred with counsel for Rio Tinto and they join in this request provided that it applies equally to all parties.

Respectfully submitted,

/s/ Scott Reents

Scott Reents